

An organization formed to promote the business of a particular industry and which carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is entitled to exemption from Federal income tax as a business league under section 501(c)(6) of the Internal Revenue Code of 1954, notwithstanding the fact that such advertising to a minor extent constitutes the performance of particular services for its members.

Advice has been requested whether an organization composed of retail dealers which conducts an advertising campaign for the benefit of an industry as a whole, under the circumstances set forth below, qualifies for exemption from Federal income tax as a business league under section 501(c)(6) of the Internal Revenue Code of 1954.

The instant organization was incorporated under state law to improve the relationship between certain dealers and the public by the improvement of delivery, the maintenance of quality, and the development and maintenance of high standards of service. Membership is open to any person or association engaged in the retailing of products or equipment related to a particular industry. No part of the net earnings inures to any private shareholder or individual. The receipts are derived from assessments on members and from contributions from the national industry association. Its disbursements are for advertising, pilot surveys, an educational program and for general operating expenses. The advertising expenditures constitute approximately 60 percent of the organization's expenses.

The organization has endeavored to increase public acceptance of the industry's product for home use by advertising in newspapers, on radio and television, in the classified telephone directory, by means of pamphlets, etc. The advertisements have stressed the economical and other desirable features of the product. None of the advertising, with the exception of one newspaper advertisement and a listing in the classified telephone directory, contained the names of individual members. In these two instances the space for the members' names was paid for by the individual members and not by the organization. A substantial part of the advertising related to a 24-hour service which was supplied by contractors who were not members of the organization and which was available to all consumers regardless of whether or not they bought from a member. Most of the advertising contained the central phone number of the organization and some of the newspaper and radio advertisements urged consumers to buy from an organization member.

Section 501(c)(6) of the Code excepts from Federal income tax 'Business leagues, chambers of commerce, real-estate boards, or boards or trade, not organized for profit and no part of the net

earnings of which inures to the benefit of any private shareholder or individual.'

Section 39.101(7)-1 of Regulations 118, made applicable herein by Treasury Decision 6091, C.B. 1954-2, 47, holds that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit and that the activities of such an association should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

In *Washington State Apples, Inc. v. Commissioner*, 46 B.T.A. 64, acquiescence, C.B. 1942-1, 17, the apple growers of Washington organized a corporation to engage in the business of advertising and promoting the sale of apples grown and produced in the State of Washington. The United States Board of Tax Appeals, now The Tax Court of the United States, held that since the purpose of the organization was to promote the industry as a whole, and not to serve individual members, such organization was a 'business league' exempt from tax under section 101(7) of the Revenue Act of 1936, the provisions of which are identical with the provisions of the statute here involved.

The purpose of the advertising campaign conducted by the instant organization was not to make a profit or to render particular services to individual members. The advertising was designed primarily for the improvement of conditions in the particular industry. Most of the benefits to members of the organization were indirect and accrued alike to members and other persons in the industry. With respect to that part of the advertising which carried the names of members or urged consumers to buy from an organization member, it may be said generally that such advertising constitutes the furnishing of particular services to members. However, in this case the advertising which carried the names of individual members or otherwise directly aided members represented only a minor portion of the total advertising expenditures and may be regarded as only incidental or subordinate to the main or principal purpose. Under these circumstances, the advertising campaign conducted by the instant organization was primarily for the benefit of the industry as a whole.

Accordingly, it is held that the organization, in conducting its advertising campaign, is engaged in activities directed to the improvement of business conditions of the particular industry as a whole as distinguished from the performance of particular services for individual persons and that it qualifies for exemption as a business league under section 501(c)(6) of the Code.